

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	
AT&T Petition to Launch a Proceeding	)	GN Docket No.12-353
Concerning the TDM-to-IP Transition	)	
	)	
	)	
Petition of the National	)	
Telecommunications Cooperative	)	
Association For a Rulemaking to	)	
Promote and Sustain the ongoing TDM-	)	
to-IP Evolution	)	

**REPLY COMMENTS OF CALTEL**

Pursuant to the Commission's Public Notice (DA 12-1999), establishing dates for comments and reply comments on two petitions that urge the Commission to alter policies to respond to the ongoing technological transition from TDM to IP-based services, the California Association of Competitive Telecommunications Companies<sup>1</sup> ("CALTEL") files the following reply comments on behalf of its members.<sup>2</sup>

## **I. Introduction and Summary**

In November, 2012, AT&T and National Telecommunications Cooperative Association (NTCA) filed separate petitions requesting the Commission to open new rulemakings to review rules and regulations in light of the industry's transition from TDM to IP-based services.<sup>3</sup>

CALTEL has reviewed the opening comments filed in response to these petitions, and agrees with a number of commenters that neither of the petitions should be granted. Like many of those commenters, CALTEL will focus on the unlawful and dangerous implications of the AT&T Petition in these reply comments.

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<sup>1</sup> CALTEL is a non-profit trade association working to advance the interests of fair and open competition and customer-focused service in California telecommunications. CALTEL members are entrepreneurial companies building and deploying next-generation networks to provide competitive voice, broadband, and video services. The majority of CALTEL members are small businesses who help to fuel the California economy through technological innovation, new services, affordable prices and customer choice.

<sup>2</sup> See [www.caltel.org](http://www.caltel.org) for a list of CALTEL member companies.

<sup>3</sup> AT&T Petition to Launch a Proceeding Concerning the TDM-to-IP Transition, GN Docket No. 12-353, filed November 7, 2012 ("AT&T Petition") and Petition of the National Telecommunications Cooperative Association for a Rulemaking to Promote and Sustain the Ongoing TDM-to-IP Evolution, GN Docket No. 12-253, filed November 19, 2012.

## **II. Discussion**

### **A. AT&T's "Two Networks" Argument is a Myth**

In particular, CALTEL agrees with the National Association of State Utility Consumer Advocates (NASUCA) about the "two networks" myth that permeates numerous petitions, comments and ex parte letters by AT&T and, its trade association, USTelecom. In its opening comments, NASUCA states:

AT&T's Petition is based on a crucial, self-interested error. It asserts that there are two networks, the traditional "legacy" public switched telecommunications network ("PSTN") and the new IP network. The truth is that there is only one, mixed, network that is evolving—as the telecommunications network has continually done—to use and accommodate newer, more efficient technologies. The "new network" discussed by AT&T in fact relies on the legacy network, a network that has proved itself reliable time after time.<sup>4</sup>

In its opening comments, COMPTTEL also addressed this myth by citing evidence from a California Public Utilities Commission (CPUC) proceeding in which Verizon explained that its FiOS service "not only shares the same infrastructure that houses its copper facilities, its copper network sometimes becomes the supporting infrastructure (by lashing the fiber directly to the copper cable)."<sup>5</sup>

Once this myth is dispelled, AT&T's Petition is exposed as "a singularly self-interested request for relief from federal and state regulation."<sup>6</sup> As Professor Barbara Cherry from Indiana University previously described, the relief from retail regulation that AT&T's deregulatory agenda seeks has the potential to adversely affect consumers,

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<sup>4</sup> Initial Comments of the National Association of State Utility Consumer Advocates, January 28, 2013, p. ii-iii ("NASUCA Comments").

<sup>5</sup> Comments of COMPTTEL, January 28, 2013, p. 13 ("COMPTTEL Comments").

<sup>6</sup> NASUCA Comments at p. 34.

allowing AT&T to “decide when, where and to whom to provide services—as well as the prices, terms and conditions—of its own choosing.”<sup>7</sup> And as COMPTTEL and other CLECs point out, the relief from wholesale regulations that AT&T seeks would adversely affect competitive choice enjoyed by residential and SMB customers today, particularly with regard to two key issues—SIP interconnection and access to last-mile facilities.<sup>8</sup>

**B. AT&T’s Proposed Trials are Without Substance or Value**

As for the geographic “trials” that AT&T proposes, a panel discussion before the National Association of Regulatory Utility Commissioners (NARUC) Telecommunications Committee earlier this month confirmed that there is very little substance to this proposal other than that AT&T customers in the affected wire centers would be force-migrated to U-Verse or wireless services, and that cable, wireless and CLEC competitors could make arrangements to exchange IP-formatted traffic with AT&T at its tandem offices. Since tandem offices are part of the TDM-centric, “legacy transmission platforms” that AT&T’s Petition claims to desire to evolve away from, CALTEL (like the representatives from cable and wireless companies who participated on the NARUC panel) does not see the value.

Furthermore, although AT&T’s representative stated that it was their intention for CLECs to be able to continue to lease last-mile facilities during the proposed “trials,” AT&T’s Petition unambiguously seeks broad state and federal deregulation that would

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<sup>7</sup> Memorandum of Ex Parte Presentation of Barbara A. Cherry, *In the Matter of Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61, dated May 14, 2012.

<sup>8</sup> COMPTTEL Comments at pp. 2-3. *See also* Comments of Cbeyond, Earthlink, Integra, Level 3 and TW Telecom; Comments of TelePacific Communications; Comments of XO Communications, LLC, all dated January 28, 2013.

ultimately dismantle its interconnection and unbundling obligations under the 1996 Telecommunications Act, thereby eliminating access to last-mile copper facilities.<sup>9</sup>

**C. Last-Mile Copper Facilities Issues Should be Addressed By Revisiting Copper Retirement Rules**

As CALTEL noted previously in its comments on USTelecom's Petition for Forbearance, "issues dealing with the inevitable transition of the industry to IP-based networks and services have been conflated by AT&T and Verizon with calls to deregulate the physical layer of their networks."<sup>10</sup> This conflation is solely based on the business plans of these two companies. The protocol that a service provider uses to route and exchange traffic with other service providers generally bears no relationship to the type of underlying outside plant facilities used to connect service provider switches to end user premises. Nor does it necessarily have a bearing on what kind of services can be supported. IP traffic can be, and routinely is, routed over copper as well as fiber facilities. Because, it is expensive to replace copper outside plant with fiber, and broadband at speeds from 3-100 Mbps can be provided over copper, the copper in ILECs' networks will remain an important part of physical networks for the foreseeable future.

The importance of copper facilities in supporting high-speed broadband services was highlighted in a recent request filed by two CALTEL member companies--U.S.

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<sup>9</sup> CALTEL also notes that not all wholesale providers use unbundled network elements to provide service to customers, and it is unclear how AT&T's proposed trials would affect those customers. See *Notice of Ex Parte Presentation of Granite Telecommunications LLC* dated January 25, 2013. However, even if service to CLEC customers is not affected during the proposed trials, it is clear from Granite's Ex Parte letter that commercial agreements rely on access to the last-mile copper facilities that are implicated in AT&T's Petition.

<sup>10</sup> Comments of CALTEL, *In the Matter of Petition of USTelecom for Forbearance Under 47 U.S.C. § 160(c) From Enforcement of Certain Legacy Telecommunications Regulations*, WC Docket No. 12-61, dated April 9, 2012, p. 4.

TelePacific and Level 3 Communications—among others,<sup>11</sup> requesting that the Commission refresh the record in RM-11358<sup>12</sup> and revisit its copper retirement rules, as promised in the National Broadband Plan (TelePacific Request).<sup>13</sup>

The TelePacific Request was accompanied by data collected from nine CLECs to quantify the deployment of Ethernet over Copper (EoC) services throughout the state of California. The results show that these CLECs provide EoC services from 343 central offices, allowing them to reach approximately two-thirds of the 371,887 SMB customers in the state. Of those customers, approximately 80%, or 300,000, are within 12 kft of their serving central office, which is a reasonable distance from which to receive 6-20+ Mbps of EoC. In approximately 60% of the 343 central offices, two or more of the participating CLECs offered EoC services, providing these customers with at least three fixed broadband competitive options. Overall, the nine CLECs have deployed EoC at 731 premises in California.<sup>14</sup>

CALTEL plans to file comments on March 5, as provided in the Public Notice issued by the Wireline Competition Bureau on February 4, 2013 (DA13-147), in support of the TelePacific Request. CALTEL also plans to continue to work with the

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<sup>11</sup> Letter of US Telepacific Corp. et al. Requesting Commission to Refresh Record and Take Expedited Action to Update Copper Retirement Rules, WC Docket Nos. 10-188, 12-353; GN Docket Nos. 09-51, 13-5; RM-11358, filed January 25, 2013 (TelePacific et al Request).

<sup>12</sup> *Policies and Rules Governing Retirement of Copper Loops by Incumbent Local Exchange Carriers, BridgeCom International et al. Petition for Rulemaking and Clarification* (filed January 18, 2007) and *Petition of XO Communications, LLC., Covad Communications Group, Inc., NuVox Communications and Eschelon Telecom, Inc. for a Rulemaking to Amend Certain Part 51 Rules Applicable to Incumbent LEC Retirement of Copper Loops and Copper Subloops* (filed January 18, 2007).

<sup>13</sup> See Federal Communications Commission, Connecting America: The National Broadband Plan, Chapter 4, pp. 50-51; <http://download.broadband.gov/plan/nationalbroadband-plan.pdf> (“National Broadband Plan”), Recommendations 4.7 and 4.9. See also *Wireline Competition Bureau Seeks Comment on Business Broadband Marketplace*, WC Docket No. 10-188, DA 10-1743, dated September 15, 2010.

<sup>14</sup> TelePacific Request, Declaration of Nancy Lubamersky.

CPUC on last-mile issues in recognition of its critical role in protecting consumers, ensuring the safety and reliability of telecommunications networks, and promoting competition. To that end, CALTEL also notes that it is an active participant in the CPUC's Service Quality proceeding, which is currently in the process of developing an Request for Proposal (RFP) to perform a "physical inspection of (AT&T and Verizon's) network facilities throughout the state and a review of carrier policies, procedures, and documents," in order to "maintain acceptable levels of service quality" for retail and wholesale customers.<sup>15</sup>

**D. SIP Interconnection Issues Should be Addressed in Section 251 Interconnection Agreements**

As for the other competitive issue implicated in AT&T's Petition, CALTEL agrees with COMPTTEL that "the most important act the Commission could take to move the industry in the transition to IP is to make it unambiguously clear that the Act's Section 251 interconnection obligations apply to SIP interconnection."<sup>16</sup> The Draft Principles recently issued by the NARUC Presidential Task Force on Federalism and Telecommunications reach the same conclusion:

4. Interconnection: Networks must remain interconnected on a non-discriminatory basis to ensure ubiquitous service:

- States and state regulators should continue to arbitrate interconnection agreements and resolve disputes as specified in TA 1996, Sections 251/252
- Sections 251/252 are technology neutral.<sup>17</sup>

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<sup>15</sup> Scoping Memo and Ruling, *Order Instituting Rulemaking to Evaluate Telecommunications Corporations Service Quality Performance and Consider Modification to Service Quality Rules, R.11-12-001*, dated September 24, 2012, p. 12.

<sup>16</sup> COMPTTEL Comments at p. 7.

<sup>17</sup> NARUC Draft Federalism Principles, Presidential Task Force on Federalism and Telecommunications, dated February 15, 2013, at [www.naruc.org/committees.cfm?c=69](http://www.naruc.org/committees.cfm?c=69).

As Commissioner Catherine Sandoval of the CPUC is a member of the NARUC Federalism Task Force, CALTEL plans to continue to work with her and the CPUC with regards to this critical issue.

### **III. Conclusion**

For the reasons stated above, the Commission should ignore AT&T's attempt to eliminate state and federal regulations, and wholesale obligations, under the guise of enabling the industry's transition from TDM to IP services. The Commission should address the two key competitive issues implicated in AT&T's Petition—SIP interconnection and access to last-mile facilities—as recommended above.

/s/

Sarah DeYoung  
Executive Director, CALTEL  
50 California Street, Suite 500  
San Francisco, CA 94111  
Telephone: (925) 465-4396  
Facsimile: (877) 517-1404  
Email: [deyoung@caltel.org](mailto:deyoung@caltel.org)

and

Richard H. Levin, Attorney at Law  
130 South Main St., Suite 202  
P.O. Box 240  
Sebastopol, CA 95473-0240  
Tel.: (707) 824-0440  
[rl@comrl.com](mailto:rl@comrl.com)

Counsel for CALTEL